

## COMMITTEE REPORT

### MR. PRESIDENT:

The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 383, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1       Page 1, delete lines 1 through 17 and insert:
- 2       "SECTION 1. IC 23-1-29-4.5 IS ADDED TO THE INDIANA
- 3       CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4       [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) This section does not
- 5       apply to any corporation that has a class of voting shares
- 6       registered with the securities and exchange commission under
- 7       section 12 of the Securities Exchange Act of 1934.
- 8       (b) Unless otherwise provided in the articles of incorporation,
- 9       any action required or permitted by this article to be taken at a
- 10      shareholders' meeting may be taken without a meeting and without
- 11      a vote if a consent or consents in writing setting forth the action
- 12      taken are:
- 13          (1) signed by shareholders having at least the minimum
- 14          number of votes necessary to authorize the action at a meeting
- 15          at which all shareholders entitled to vote were present and
- 16          voted; and
- 17          (2) delivered to the corporation for inclusion in the minutes or
- 18          filing with the corporate records.
- 19      (c) Unless the articles of incorporation provide that no prior
- 20      notice is required, written notice of the proposed action containing
- 21      the information required by section 5 of this chapter must be given

1 to the shareholders at least ten (10) days before the action is taken.

2 (d) If not otherwise determined under section 7 of this chapter,  
3 the record date for determining shareholders entitled to take action  
4 without a meeting is the date the first shareholder signs the consent  
5 under subsection (b).

6 (e) Each written consent must bear the date of signature of each  
7 shareholder who signs the consent.

8 (f) A written consent is effective when, within sixty (60) days of  
9 the earliest dated consent delivered to the corporation, written  
10 consents signed by a sufficient number of shareholders to take  
11 action are delivered to the corporation, unless the consent specifies  
12 a different prior or subsequent effective date.

13 (g) For purposes of this subsection, "electronic consent" means  
14 a telegram, cablegram, or other form of electronic transmission.  
15 The following apply to an electronic consent:

16 (1) An electronic consent to an action to be taken may be  
17 transmitted by a:

18 (A) shareholder; or

19 (B) person or persons authorized to act for a shareholder.

20 (2) The date that an electronic consent is transmitted is  
21 considered to be the date on which the consent is written,  
22 signed, and dated for purposes of this section, if the electronic  
23 consent is delivered with information from which the  
24 corporation can determine:

25 (A) that the electronic consent was transmitted by a  
26 shareholder or by a person or persons authorized to act for  
27 a shareholder; and

28 (B) the date on which a shareholder or an authorized  
29 person or persons transmitted the electronic consent.

30 (3) An electronic consent is considered to be delivered when:

31 (A) the consent is reproduced in paper form; and

32 (B) the paper form is delivered to the corporation.

33 (4) Notwithstanding subdivisions (1), (2), and (3), electronic  
34 consents may be delivered to the corporation in any other  
35 manner provided by resolution of the board of directors.

36 (5) A reliable reproduction of a consent in writing may be  
37 used instead of the original writing for any and all purposes  
38 for which the original writing could be used if the

1           reproduction is a complete reproduction of the entire original  
2           writing.

3           (h) Unless prior notice has been given to the shareholders as  
4           provided in subsection (c), prompt notice of the taking of the  
5           corporate action without a meeting by less than unanimous written  
6           consent of the shareholders must be given to those shareholders,  
7           including nonvoting shareholders entitled to notice under this  
8           article, who:

9           (1) did not consent in writing; and

10          (2) would have been entitled to notice of the meeting if the  
11          record date for the meeting was the date on which the first  
12          shareholder's signed consent was delivered to the corporation  
13          under subsection (f).

14          (i) A document required to be filed under any other section of  
15          this article regarding the action consented to by the shareholders  
16          under this section must state, instead of any statement required by  
17          another section of this article concerning any vote of the  
18          shareholders, that written consent has been given in accordance  
19          with this section."

20          Delete page 2.

21          Page 3, delete lines 1 through 27.

(Reference is to SB 383 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Long**

**Chairperson**